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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DOUGLAS JOHN MARTIN TOBIN.

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. C08-5591RJB/JKA

ORDER DENYING MOTION

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate Judge's Rules MJR 1, MJR 3, and MJR 4. Before the court a motion for discovery filed by plaintiff (Dkt. # 9).

As a preliminary matter, the affidavit of service shows plaintiff serving counsel at 7141 Clearwater Dr. SW. P.O. Box 40126 Olympia WA 98504. The address on file for counsel is Davies Pearson PC P.O. Box 1657 Tacoma WA 98401. Normally this flaw would prevent the court from considering the motion. Here, however, plaintiff makes clear he has filed the motion asking for discovery only to make his request part of the record. Plaintiff states he knows the documents he is seeking do not exist (Dkt. # 9).

This is not the proper manner for submitting evidence, discovery should not be filed with the court absent a dispute between the parties regarding discovery. The motion is improper and is **DENIED**.

The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for defendant(s).

DATED this 29 day of January, 2009.

/s/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge